

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:10CR3016
)	
v.)	
)	
NAPTALY MENDOZA MORALES,)	MEMORANDUM AND ORDER
)	
Defendant.)	

The defendant was indicted on February 18, 2010, and during the pendency of this case, has been incarcerated within a Nebraska correctional facility. A detainer was filed by the U.S. Marshal on February 22, 2010. By letter written to Nebraska's detainer administrator, the defendant asserted his rights under the Interstate Agreement on Detainers Act on February 24, 2010. Filing No. 18. The defendant was arraigned in this court on the federal charges on February 25, 2010.

On April 27, 2010, at the defendant's request, the court set a hearing on defendant's anticipated change of plea and cancelled the trial originally scheduled for May 5, 2010. The change of plea hearing was set for June 3, and then continued to June 15, 2010. Prior to the hearing on June 15, 2010, defense counsel advised the court the defendant believed he was innocent and would not plead guilty to certain elements of the charges set forth in the indictment, and therefore the defendant wanted to proceed to trial.

A hearing was conducted. The defendant acknowledged that his attorney had explained or reminded the defendant of his rights under the IADA. The court further stated the rights afforded the defendant under the IADA and the Speedy Trial Act. The defendant acknowledged and agreed that the attorneys had prepared for a plea and sentencing rather than a trial, and therefore additional time was now needed to prepare for trial. Accordingly, the defendant agreed to waive the 180-day deadline for trial under the IADA, and agreed that the additional time needed to prepare for trial should be excluded under the Speedy Trial Act. The defendant agreed to a trial date of August 30, 2010.

Accordingly,

IT IS ORDERED:

- 1) The defendant's oral motion to set this case for trial is granted.
- 2) The defendant has knowingly and voluntarily waived his right to a trial within the 180-day deadline set by the Interstate Agreement on Detainers Act.
- 3) Trial is set to begin at 9:00 a.m. on August 30, 2010 for a duration of five trial days before Judge Richard G. Kopf in Courtroom 1, United States Courthouse and Federal Building, 100 Centennial Mall North, Lincoln, Nebraska. Jury selection will be at the commencement of trial.
- 4) In the interests of justice, and for the reasons discussed above and on the record, the time between June 15, 2010 and August 30, 2010 shall be deemed excludable time in any computation of time under the requirements of the Speedy Trial Act, for the reason that the parties require additional time to adequately prepare the case, taking into consideration due diligence of counsel, the novelty and complexity of the case, and the fact that the failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 16th day of June, 2010.

BY THE COURT:

s/Cheryl R. Zwart

United States Magistrate Judge